

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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Jessica Trumper,

Plaintiff,

v.

GE Capital Retail Bank; and DOES 1-10,  
inclusive,

Defendants.

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Civil Action No.: 2:14-cv-01211-WJM-MF

**FIRST AMENDED COMPLAINT**

Plaintiff, Jessica Trumper, says by way of First Amended Complaint against Defendant, GE Capital Retail Bank, as follows:

**JURISDICTION**

1. This action arises out of Defendants' repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq.* (the "TCPA").
2. This Court has supplemental jurisdiction over all other claims in this action, as all such claims arise out of the same case or controversy as Defendant's violations of the FDCPA pursuant to 28 U.S.C. § 1367.
3. Venue is proper in the U.S. District Court for the District of New Jersey pursuant to 28 U.S.C. § 1391(b), as Defendant transacts business in the State of New Jersey.

**PARTIES**

4. The Plaintiff, Jessica Trumper ("Plaintiff"), is an adult individual residing in Pompton Plains, New Jersey, and is a "person" as defined by 47 U.S.C. § 153(10).

5. Defendant GE Capital Retail Bank (“GE”), is an Ohio business entity with an address of 950 Forrer Boulevard, Kettering, Ohio 45420, and is a “person” as defined by 47 U.S.C. § 153(10).

6. Does 1-10 (the “Agents”) are individual employees and/or agents employed by GE and whose identities are currently unknown to the Plaintiff. One or more of the Agents may be joined as parties once their identities are disclosed through discovery.

7. GE at all times acted by and through one or more of the Agents.

### **FACTS**

8. Beginning in early January of 2014, GE called Plaintiff’s cellular telephone by using an automated telephone dialer system (“ATDS”) and/or by using an artificial or prerecorded voice.

9. The calls were placed to Plaintiff’s Verizon wireless telephone number 973-xxx-1937.<sup>1</sup>

10. The calls were placed from telephone numbers 800-355-5443 and 937-534-2092 which are numbers assigned to or used by GE.

11. When Plaintiff answered the calls, a prerecorded or artificial voice advised that the call was for a “Enid Gonzales”.

12. On at least two separate occasions in January of 2014, Plaintiff spoke with GE in an effort to get the calls to stop. Plaintiff advised GE that she was being called in error and directed GE to remove her number from the dialing list or account and to cease all communications with her.

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<sup>1</sup> Plaintiff’s full telephone number is withheld for privacy considerations but will be provided to the Defendant.

13. When Plaintiff objected to the ongoing calls she was advised by a GE representative that it could not remove Plaintiff's number from the account without the account holder's permission.

14. On January 23, 2014, Plaintiff lodged a complaint with GE through its online "Contact" form.

15. The tracking number for her complaint is 723196-4310784.

16. Plaintiff's message set forth:

"Enid Gonzalez set up her account using my cell phone number 973-xxx-1937. I was told that you would note not to call me but I keep getting automated phone calls. REMOVE MY PHONE FROM THE ACCOUNT. IF I CONTINUE TO RECEIVE PHONE CALLS I WILL SEEK LEGAL ACTION FOR HARASSMENT. STOP CALLING ME."<sup>2</sup>

17. Thereafter, GE continued to call Plaintiff at a repeated rate for successive days in a row.

18. GE did not have Plaintiff's consent to call her cellular telephone number with prerecorded or artificial messages in regards to the Enid Gonzalez account.

**COUNT I**  
**VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –**  
**47 U.S.C. § 227, et seq.**

19. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

20. 47 U.S.C. § 227(b)(1)(A)(iii) prohibits any call using any automatic telephone dialing system **or** an artificial or prerecorded voice without Plaintiff's consent.

21. GE continued to place recorded calls to Plaintiff's cellular telephone after being advised multiple times it had the wrong number and knowing there was no consent to continue

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<sup>2</sup> Partially redacted for privacy considerations.

the calls. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

22. The telephone number called by GE was assigned to a cellular telephone service for which Plaintiff incurs charges for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

23. The calls from GE to Plaintiff were not placed for “emergency purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).

24. GE’s telephone system has the capacity to store numbers in a random and sequential manner and uses the system to place the calls.

**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendants:

- A. As a result of each call made in negligent violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B);
- B. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C);
- C. Such other and further relief as may be just and proper.

**TRIAL BY JURY DEMANDED ON ALL COUNTS**

Dated: May 30, 2014

Respectfully submitted,

By: /s/ Sofia Balile

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 30, 2014, a true and correct copy of the foregoing First Amended Complaint was served electronically by the U.S. District Court District of New Jersey Electronic Document Filing System (ECF), which sent notice of such filing to the following:

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By /s/ Sofia Balile  
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